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Remarks

Claims 1-19, 21 and 23-40, inclusive, are under consideration.

Claims 20 and 22 have been canceled, thus the outstanding rejection of these particular claims under 35 U.S.C. 112 has been rendered moot.

The rejection of all remaining claims under 35 U.S.C. 103(a) as unpatentable over EP 0 461 662, or U.S. Patent No. 5,374,715 to Kanno, or U.S. Patent No. 4,532,089 to MacDonald, or WO 95/09610, individually or in combination, further in view of U.S. Patent No. 5,641,508 to Li et al. is not warranted, and is hereby traversed.

As the Examiner has recognized, none of the primary references teach or suggest the claimed liposome constituents and the claimed ratios. Accordingly, regardless of whether the primary references are considered individually or collectively, the presently claimed liposomes and/or methods for their production could not have been suggested to one of ordinary skill at the time the present invention was made.

Li et al., the secondary reference, does not cure the aforesaid shortcomings of the principal references. The ratios of DPPC to DOPE taught by Li et al. clearly do not suggest the claimed proportion of DPPC:DOPE:cholesterol of about 7:3:5. At column 12, line 12, Li et al. describe a preferred proportion of 5:2:3. This is a proportion far removed from that presently claimed.

It is also noteworthy that the Li et al. liposomes deliver melanin and calcein to hair follicles after time periods measured in hours (col. 30, line 52, to col. 31, line 25) and are not intended for entry into systemic circulation (col. 32, lines 19-25). Thus, one of ordinary skill would not have had any motivation whatsoever to look to Li et al. when seeking to improve upon any of the teachings of the primary references.

The alternate rejection of all claims under 35 U.S.C. 103(a) based on the same principal references in view of Li et al. and Ostro (American Journal of Pharmacy) is traversed as well.

The shortcomings of the principal references in combination with Li et al. discussed above are equally applicable here. Ostro does not cure any of these deficiencies.

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The mere teaching that the half-life of relatively larger liposomes is in minutes would not have suggested to one of ordinary skill the specific limitations of the present claims.

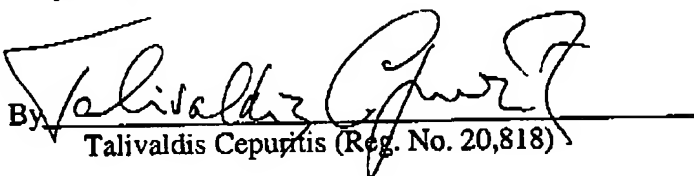
Withdrawal of this rejection is earnestly urged.

Zern, Nacy, Papahadjopoulos and Thierry, cited as being of interest, have been reviewed but do not vitiate the patentability of the present claims.

Early passing of this application to issue is solicited.

Respectfully submitted,

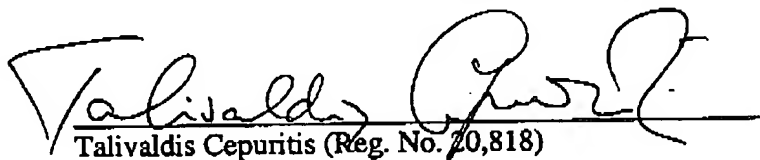
October 14, 2004

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this AMENDMENT AND RESPONSE UNDER RULE 111 is being transmitted by facsimile transmission to Fax No. 703-872-9306 on October 14, 2004.


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